

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

MICHAEL RAY HOGAN,

Petitioner,

vs.

RENEE BAKER,<sup>1</sup> *et al.*,

Respondents.

2:97-cv-00927-JCM-PAL

**ORDER**

On December 30, 2003, this court approved a stipulation to stay these federal proceedings to allow petitioner to exhaust the unexhausted claims in his third amended petition. ECF No. 98. On February 27, 2008, the court entered an order (ECF No. 113) granting petitioner's counsel's motion to withdraw, and appointing new counsel to represent him. Because it appeared that petitioner's state court proceedings had been completed in 2007, this court, in the February 27, 2008, order, directed petitioner to either file a motion to lift the stay, or a notice explaining why no such motion would be filed.

On June 27, 2008, in compliance with that order, petitioner filed a motion to extend the stay (ECF No. 117), requesting that this action remain stayed so that he may pursue further state court litigation. As grounds for that motion, petitioner's then-new counsel stated that they had discovered

---

<sup>1</sup> Renee Baker is substituted for her predecessor as Warden of Ely State Prison. Fed. R. Civ. P. 25(d).

1 issues that had yet to be litigated in state court. Respondents filed a notice of non-opposition (ECF  
2 No. 120), indicating that they did not object to the extension of the stay of this action to allow  
3 petitioner time to exhaust additional claims in state court. Accordingly, the court granted petitioner's  
4 motion to extend the stay. ECF No. 121.

5 On April 6, 2012, petitioner Hogan filed a motion to lift the stay and reopen these  
6 proceedings, indicating that his state court proceedings have been concluded. ECF No. 129.  
7 Respondents have not filed an opposition or other response to petitioner's motion.

8 Good cause appearing, the court shall reopen proceedings in this matter. In addition,  
9 petitioner will be allowed the opportunity to file an amended petition. However, petitioner is  
10 cautioned that, as provided in the order extending the stay, an amended petition shall contain only  
11 claims for which he has exhausted state court remedies.

12 **IT IS THEREFORE ORDERED** that petitioner's motion to lift stay (ECF No. 129) is  
13 GRANTED. The clerk shall administratively REOPEN this action. The stay of this action is lifted.

14 **IT IS FURTHER ORDERED** that petitioner shall have **thirty (30) days** from the date this  
15 order is entered within which to file an amended petition for habeas corpus relief. The amended  
16 petition shall contain only exhausted claims. Upon the filing of the amended petition or the  
17 expiration of time allotted for that purpose, the court shall schedule further proceedings in this case.

18 **IT IS FURTHER ORDERED** that the clerk of the court shall substitute Renee Baker for  
19 Harold Whitley, on the docket, as the respondent warden in this action, and shall update the caption  
20 of the action to reflect this change.

21 DATED: May 18, 2012.

22  
23   
24 \_\_\_\_\_  
UNITED STATES DISTRICT JUDGE  
25  
26